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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,519	03/12/2004	Andrew J. Mauk	830288.00009	8504
26710	7590	12/15/2005	EXAMINER	
QUARLES & BRADY LLP 411 E. WISCONSIN AVENUE SUITE 2040 MILWAUKEE, WI 53202-4497			REHM, ADAM C	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/799,519	Applicant(s) MAUK ET AL. 	
	Examiner Adam C. Rehm	Art Unit 2875	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-5 and 9-11 is/are rejected.
- 7) ☒ Claim(s) 2 and 6-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/12/2004</u> . | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "pivotal wall" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-5 and 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by YEH (US 5,615,946), which discloses a lighting fixture (10) comprising:

- A fixture support (24/22/20);
- A shade supported by the support (32);
- A first lamp receiver positioned adjacent the shade so that light can be projected beyond the shade if a lamp is placed in the first lamp receiver and that lamp is supplied with power (lowermost 32, Fig. 1);
- A pivotable wall positioned over the first lamp receiver (33, Fig. 1 and uppermost 32);
- A second lamp receiver positioned on the pivot wall (uppermost 32);
- Wherein pivoting the wall from a first position to a second position provides greater access to the first lamp receiver (Fig. 1 illustrates a plurality of lamps 32 whereby pivoting of the upper pivotal brackets 33 provide access to the first lamp receiver; “access” interpreted broadly to be viewing from above or a top view of the fixture 10);
- First and second lamps/light bulbs received in the first and second receivers (Column 3, Lines 30-39);

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- Whereby the second lamp illuminates an area vertically above, and the first lamp illuminates an area below the lighting fixture (Fig. 9 illustrates a swivel head 32 having a locking screw 50 and channel 48 enabling the head 32 to swivel for directing light upwards or downwards);
- An upwardly refracting bowl/cup (upon swiveling the head 32 upwardly as shown above, the head 32 is an upwardly refracting cup); and
- A horizontal axis to move the wall from horizontal to vertical (Fig. 8 illustrates an axis 33 allowing pivoting of the head 32 up/vertical or down/horizontal).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over YEH (US 5,615,946) as applied to claim 1 above, and further in view of STIFFEL (US 2,793,286). YEH discloses the invention as claimed, but does not disclose light units that mount to a ceiling. However, STIFFEL teaches light units that mount to and engage against a ceiling (Fig. 1) in order to prevent overturning of the units (Column 2; Lines 39-45). It would have been obvious to one of ordinary skill in the art at the time of invention to modify YEH and use the ceiling mount as taught by STIFFEL in order to provide a more securely positioned unit that will not overturn.

***Allowable Subject Matter***

4. Claims 2 and 6-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. The following is a statement of reasons for the indication of allowable subject matter: no art of record discloses or suggests a lighting fixture with a first lamp and a pivotable wall having a second lamp and positioned over the first lamp wherein pivoting of the wall from a first to a second position provides greater access to the first lamp; wherein the first lamp is positioned on the pivotable wall; wherein the wall is part of an upwardly refractive cup and the first lamp is positioned outside of the cup; wherein the fixture is in the form of a wall-mountable sconce;.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. SWANSON (US 6,860,619) discloses lamps that are fully flexible to project light upwards or downwards.
7. JOHNSON (US 6,494,601) discloses a plurality of lamps attached to a pivotable wall.
8. FISCHER ET AL. (US 6,422,720) discloses a lamp having a pivotable wall.
9. SIMINOVITCH ET AL. (US 6,318,880) discloses a lamp with two light sources providing up and down lighting.
10. QUIOGUE ET AL. (US 6,149,280) discloses a lamp having a pivotable wall.

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11. TAPP (US 5,816,687) discloses a plurality of lamps attached to a pivotable wall.
12. ATKINSON (US 881,284) discloses a lamp with two bulbs providing up and down lighting.

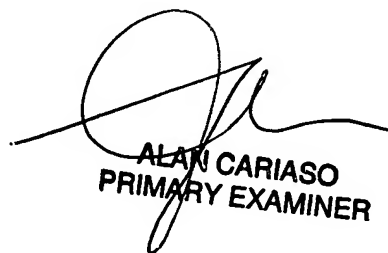
### ***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adam C. Rehm whose telephone number is 571.272.8589. The examiner can normally be reached on M-F 9-5:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571.272.2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ACR  
12/10/2005



ALAN CARIASO  
PRIMARY EXAMINER